

on the Democratic side that we will ask the Chair to be as strict in protecting the President and his immediate family as the Chair is legitimately being with respect to the other body.

THE SPEAKER: The gentleman from Georgia [Mr. Gingrich] has, in effect, cooperated with the Chair on the matter. . . .

MR. [DENNIS E.] ECKART [of Ohio]: Mr. Speaker, I have a parliamentary inquiry. . . .

To what extent do the rules of the House extend to individuals who may be related to public officials.

THE SPEAKER: The traditions only go to the references to Members of the other body personally or to the President personally, but do not necessarily go to the matters of the President's family.

Parliamentarian's Note: In some instances, of course, a particular criticism of the President's family might constitute a personal affront to the President himself.

§ 48. Procedure; Calls to Order

Clause 4 of Rule XIV of the House rules provides a procedure for dealing with disorderly words or actions by Members:

If any Member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any Member may, call him to order; in which case he shall immediately sit down,

unless permitted, on motion of another Member, to explain, and the House shall, if appealed to, decide on the case without debate; if the decision is in favor of the Member called to order, he shall be at liberty to proceed, but not otherwise; and, if the case require it, he shall be liable to censure or such punishment as the House may deem proper.⁽¹⁾

Where the violation of the rules is technical and not willful, a point of order, rather than a demand that words be taken down, is often made, and if sustained the Speaker directs the Member who had the floor to proceed in order.⁽²⁾

Where objectionable words are uttered in debate and are called to the attention of the House, the provisions of the cited rule are followed explicitly. If a Member demands that the offending words "be taken down," the Member must take his seat until the words are reported pursuant to Rule XIV clause 5:

If a Member is called to order for words spoken in debate, the Member calling him to order shall indicate the words excepted to, and they shall be taken down in writing at the Clerk's desk and read aloud to the House; but he shall not be held to answer, nor to be subject to the censure of the House therefor, if further debate or other business has intervened.⁽³⁾

1. *House Rules and Manual* §760 (1995).
2. See Ch. 31, *infra*, for points of order.
3. *House Rules and Manual* §761 (1995).

As clause 4 of the rule indicates, the Speaker may on his own initiative call a Member to order for words spoken in debate or for other acts of disorder and has so done on occasion;⁽⁴⁾ and where a Member has persisted in speaking when not recognized and in spite of repeated calls to order, the Speaker has ordered his microphone turned off.⁽⁵⁾ The Speaker has an affirmative duty to call a Member to order for referring, in violation of the rules, to individual Senators or to proceedings of the Senate.⁽⁶⁾ If the words used in debate refer critically to the Speaker and are taken down, the Speaker leaves the chair after appointing another Member to preside for the purpose of ruling on the words objected to.⁽⁷⁾

A Delegate may call a Member to order (2 Hinds' Precedents § 1295).

4. See, for example, §§ 48.1, 48.2, 48.5–48.7, 48.9, 48.10, *infra*.
5. See § 48.20, *infra*.
6. See § 48.3, *infra*.

“[I]t is the duty of the House, and more particularly of the Speaker, to interfere immediately, and not to permit expressions to go unnoticed which may give a ground of complaint to the other House. . . .” Jefferson’s Manual, *House Rules and Manual* § 374 (1995).

For announcements by the Chair stating his intention to strictly enforce the rule of comity, see § 44.8, *supra*.

7. See § 48.11, *infra*.

Because the demand to take down words spoken in debate must come immediately after the words are uttered,⁽⁸⁾ a question of privilege based upon such words may not be raised at a subsequent time.⁽⁹⁾ But the insertion of objectionable words in the *Congressional Record* by a Member, either under leave to revise and extend, or without such leave, will support a question of privilege.⁽¹⁰⁾

Where objectionable words are uttered in the Committee of the Whole, a demand must be made to take them down, the Committee rises, and the words are reported by the Clerk for a ruling by the Speaker. After the House determines whether to expunge offensive words from the Record, and whether to permit an offending Member to proceed in order, the Committee then resumes sitting without motion.⁽¹¹⁾ House action is strictly limited to the words reported from the Committee,⁽¹²⁾ and the Speaker will not entertain a request that further words spoken in the Committee be taken down.⁽¹³⁾ The Committee of the Whole can take no action on

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8. See § 49, *infra*.

9. See §§ 48.14, 48.15, *infra*.

10. See § 48.16, *infra*.

11. See § 49.42, *infra*.

12. See § 50.10, *infra*.

13. See § 49.39, *infra*.

objectionable words, such as expungement from the Record,⁽¹⁴⁾ but both the objectionable words and the demand that words be taken down may be withdrawn in the Committee.⁽¹⁵⁾

The following is the order of precedence of motions if words are sought to be ruled out of order in the House: (1) under Rule XIV clause 4, before the Speaker rules, a motion to explain is in order and is preferential; (2) when the Speaker rules, any appeal from the ruling must come immediately and is not debatable; (3) after the ruling, a motion to strike or expunge from the Record has priority, since permitting a motion to explain at that stage would undermine the Speaker's ruling and a possible appeal; the motion to strike is debatable and the previous question should be moved; (4) a motion to permit the offending Member to proceed in order is debatable and the previous question should be moved, but the motion should be made so that the Member is not prohibited from speaking for the remainder of the day.⁽¹⁶⁾

14. See §49.16, *infra*.

15. See §49.27, *infra* (demand may be withdrawn without unanimous consent) and §49.31, *infra* (objectionable words may be withdrawn by unanimous consent).

16. See §52, *infra*.

Forms

Form of call to order in the House.

THE SPEAKER: For what purpose does the gentleman rise?

MEMBER: Mr. Speaker, I rise to a point of order.

THE SPEAKER: The gentleman will state his point of order.

MEMBER: Mr. Speaker, I make the point of order that the gentleman from [State] is

THE SPEAKER: The point is well taken and the gentleman will proceed in order.⁽¹⁷⁾

Cross References

Call to order for disorderly acts, see §43, *supra*.

Call to order may take Member off the floor, see §33, *supra*.

Chairman's role in maintaining order in the Committee of the Whole, see Ch. 19, *supra*.

Clerk maintains order before election of Speaker, see Ch. 1, *supra*.

Expungement and deletion of matter from the *Congressional Record* generally, see Ch. 5, *supra*.

Member persisting in irrelevant debate may be required to take his seat, see §37, *supra*.

Punishment for acts by Members, see Ch. 12, *supra*.

Recognition for points of order, see §20, *supra*.

Collateral References

Call to order in the Senate, see Riddick/Frumin, *Senate Procedure*, S. Doc. No. 101-28, 101st Cong. 2d Sess. (1992).

17. *Cannon's Procedure of the House of Representatives*, 75, H. Doc. No. 122, 86th Cong. 1st Sess. (1959).

Authority of Speaker or Chairman**§ 48.1 The Speaker, observing that debate is becoming personal and approaching a violation of the rules, may request Members to proceed in order.**

On June 23, 1964,⁽¹⁸⁾ Speaker John W. McCormack, of Massachusetts, intervened during debate in the House:

MR. [WAYNE L.] HAYS [of Ohio]: The gentleman had better stop right there, or I will have his words taken down, because I am not the head of two national banks. We do not have two characters. You had better either stick to the facts, or you will stop talking; one or the other.

MR. [WRIGHT] PATMAN [of Texas]: If the gentleman will retract his own words, I cannot help that.

THE SPEAKER: The gentleman will suspend. Both gentlemen will suspend.

MR. HAYS: Will the gentleman yield?

MR. PATMAN: I will not yield until I finish my statement.

THE SPEAKER: The Chair suggests that the rules are established as the law of the House and the Chair is not passing at this time on any question in connection with the rules, but the Chair suggests that there has been a very close approach in more than one way or two ways to a violation of the rules. The Chair suggests that the gentleman from Texas proceed in order

and, if he yields, that the gentleman from Ohio make his observations in order.

§ 48.2 The Speaker may call a Member to order for words spoken in debate.

On Jan. 12, 1961,⁽¹⁹⁾ when Mr. H. R. Gross, of Iowa, referred in debate to the "so-called painless method of packing the Rules Committee," Speaker Sam Rayburn, of Texas, called him to order on his own initiative and ruled the language out of order.

§ 48.3 It is the duty of the Chair to interrupt a Member in debate when the Member proposes to refer to the opinions or statements of Senators or to Senate proceedings.

On May 25, 1937,⁽²⁰⁾ when a Member proposed to read a letter from a member of the Senate on the floor of the House, Chairman John J. O'Connor, of New York, on his own responsibility made a point of order against the reading of the letter from a member of the other body.

Similarly, on Apr. 18, 1939,⁽¹⁾ when a Member referred to the

18. 110 CONG. REC. 14717, 88th Cong. 2d Sess.

19. 107 CONG. REC. 650, 87th Cong. 1st Sess.

20. 81 CONG. REC. 5013, 75th Cong. 1st Sess.

1. 84 CONG. REC. 4404, 76th Cong. 1st Sess.

action of the Senate on a particular appropriation bill then before the House, Speaker William B. Bankhead, of Alabama, stated as follows:

The Chair desires to call the attention of the gentleman from Pennsylvania to the fact that under the rules of the House he is not permitted to refer to any action taken in the Senate of the United States.⁽²⁾

Chair May Take Initiative

§ 48.4 The Chairman of the Committee of the Whole called the Committee to order and stated that he would not hesitate to call Members to order by name if order was not promptly established.

During consideration of House Concurrent Resolution 307 (first concurrent resolution on the congressional budget for fiscal years 1981, 1982 and 1983) in the Committee of the Whole on Apr. 30, 1980,⁽³⁾ the Chair made a statement, as indicated below:

MR. [JOHN W.] WYDLER [of New York]: Mr. Chairman, I make the point of order that the Committee is not in order.

2. The Chair also intervenes on his own initiative to prevent reference to gallery occupants (see § 45, *supra*).
3. 126 CONG. REC. 9471, 96th Cong. 2d Sess.

THE CHAIRMAN:⁽⁴⁾ Permit the Chair to say that he believes that every Member has a right to be heard in the Committee of the Whole. It is not a matter of the Chair desiring order. It is a matter of Members deserving order so that there can be a reasonable procedure; and the Chair proposes to see to it that each Member is given an opportunity to express himself. It will be a great deal easier for everybody if the Committee comes to order a little bit more quickly.

The Chair will conclude by saying he does not hesitate to call names if he must.

§ 48.5 The Chair may take the initiative to enforce the prohibition in clause 1 of Rule XIV against Members engaging in personalities during debate and call to order a Member alleging that an identifiable group of sitting Members have committed a crime.

During proceedings in the House on Mar. 21, 1989,⁽⁵⁾ Speaker James C. Wright, Jr., of Texas, exercised his prerogative under Rule XIV, clause 1, in calling a Member to order for use of personalities in debate. The proceedings were as follows:

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Speaker, bipartisanship

4. Richard Bolling (Mo.).
5. 135 CONG. REC. 5016, 5017, 101st Cong. 1st Sess.

in the House has taken a curious twist. It now appears that the Democrat leadership is attempting to influence and interfere in the race for Republican whip. . . .

To those Democrats who have been a part of trying to influence the outcome of this election, let it be noted that the last time you played this game, you stole the Indiana seat from the Republican Party. That outrage and this one tell us more than we need to know about your definition of bipartisanship.

THE SPEAKER: The gentleman is not proceeding in a parliamentary manner. He used the word "stole." His accusation that Members of the House stole an election is improper, and the gentleman realizes that. . . .

The gentleman is engaging in personalities and when he uses words like the word "stole" with reference to an identifiable group of Members, that has been held improper.

§ 48.6 Instance where the Speaker ignored the demand that words be taken down and exercised his initiative to caution the offending Member.

On July 12, 1990,⁽⁶⁾ it was demonstrated that the range of permissible references to the Senate in debate does not extend to the opinions or policy positions of individual Senators. The proceedings in the House were as follows:

(Mr. Gingrich asked and was given permission to address the House for 1

6. 136 CONG. REC. ____, 101st Cong. 2d Sess.

minute and to revise and extend his remarks.)

MR. [NEWT] GINGRICH [of Georgia]: Mr. Speaker, it is outrageous for the Senate Democratic leader to publicly demand higher taxes and a massive 25-percent increase in the income tax top rate. The Senate Democratic leader is threatening to destroy the budget summit.

Mr. Speaker, Senator Mitchell does not attend summit meetings. He publicly demands tax increases. Senator Mitchell does not offer serious budget reforms. He publicly demands tax increases. Senator Mitchell does not offer spending cuts.

MR. [HAROLD L.] VOLKMER [of Missouri]: Mr. Speaker, I ask that the words of the gentleman from Georgia [Mr. Gingrich] be taken down.

THE SPEAKER:⁽⁷⁾ The Chair will merely caution the gentleman from Georgia that such references to members of the other body are not in order. . . .

MR. GINGRICH: I would inquire of the Speaker, if it is in reference to a public newspaper account of public activity by a political leader, and I believe in this House we have a remarkably wide range of free speech, and this is not a reference to any action by the Senator of Maine in the Senate.

THE SPEAKER: Under clause 1, rule XIV, it is an improper reference to a Member of the other body.

The Chair would ask the gentleman from Georgia [Mr. Gingrich] to observe the traditions of the House.

7. Thomas S. Foley (Wash.).

Speaker Sometimes Takes Initiative Where Improper Remarks Are Uttered

§ 48.7 The Speaker cautioned a Member that it is a breach of order under clause 1 of Rule XIV to allege in debate that a Member has engaged in conduct similar to the subject of a complaint pending before the Committee on Standards of Official Conduct against another Member; and under clause 4 of that rule, the Chair takes the initiative in calling to order Members improperly engaging in personalities in debate.

Speaker Pro Tempore G. V. (Sonny) Montgomery, of Mississippi, called a Member to order in the House on Mar. 22, 1989,⁽⁸⁾ as indicated below:

(Mr. Alexander asked and was given permission to revise and extend his remarks and to include extraneous material.)

MR. [BILL] ALEXANDER [of Arkansas]: Mr. Speaker, after arriving at the Capitol a few minutes ago on this glorious spring day, I learned that our colleagues on the other side of the aisle have conducted an election for minority whip resulting in the election of the gentleman from Georgia (Mr. Gingrich) as minority whip. . . .

I would note to those who are observing that the gentleman from Georgia made his name, so to speak, by a sustained personal attack on the good name of Jim Wright, the Speaker of the House of Representatives who has devoted decades of meritorious service to our country. The gentleman from Georgia alleged that the Speaker has circumvented minimum income limits of Members of Congress by writing a book for which he received a royalty.

Now, it is also to be noted that just this week it was learned that the gentleman from Georgia (Mr. Gingrich) also allegedly has a book deal. It is alleged in the Washington Post this week that the gentleman from Georgia received a royalty or a payment in the nature of a royalty. This is apparently similar to the Wright arrangement which is the basis of the gentleman from Georgia's complaint before the Ethics Committee.

THE SPEAKER PRO TEMPORE: The Chair would state to the gentleman that he cannot make personal references, as the gentleman has done in his remarks.

§ 48.8 The Chair enforces section 364 of Jefferson's Manual by admonishing Members who attempt to disturb Members who are addressing the House by conversing with them.

In the proceedings of Feb. 21, 1984,⁽⁹⁾ the Chair sought to preserve order by admonishing Mem-

8. 135 CONG. REC. 5130, 101st Cong. 1st Sess.

9. 130 CONG. REC. 2758, 98th Cong. 2d Sess.

bers not to converse with a Member attempting to address the House:

THE SPEAKER PRO TEMPORE:⁽¹⁰⁾ The House will be in order.

The Chair would like to suggest that the rules of the House prohibit the engagement of private conversation with someone who is in the process of speaking or has just concluded speaking and would ask the gentleman on his left and the gentleman on his right to extend to one another the courtesies commonly expected of Members of the House.

§ 48.9 Where a Member transgresses clause 1 of Rule XIV by engaging in personalities in debate, and discusses behavior of a Member where a complaint has been filed with the Committee on Standards of Official Conduct concerning that conduct, the Chair takes the initiative to call him to order pursuant to clause 4 of Rule XIV.

On Nov. 3, 1989,⁽¹¹⁾ the following proceedings occurred in the House during a special-order speech:

THE SPEAKER PRO TEMPORE:⁽¹²⁾ Under a previous order of the House,

10. James C. Wright, Jr. (Tex.).

11. 135 CONG. REC. 27077, 27082, 101st Cong. 1st Sess.

12. Jolene Unsoeld (Wash.).

the gentleman from California [Mr. Dannemeyer] is recognized for 60 minutes.

MR. [WILLIAM E.] DANNEMEYER [of California]: . . . I want to make clear to my colleagues that at the appropriate time in the near future, I will offer a resolution, in one form or another, to expel [two Members specified]. . . .

THE SPEAKER PRO TEMPORE: The gentleman will pause. The gentleman is discussing a matter pending before the Ethics Committee. I would remind the gentleman from California that clause 1 of rule XIV prevents Members in debate from engaging in personalities. Clause 4 of that rule provides that if any member transgresses the rules of the House, the Speaker shall, or any Member may, call him to order.

The gentleman may proceed within the rules of the House.

MR. DANNEMEYER: . . . George Washington Law Professor John Banzhaf has done extensive research on a case of Member "X." He concludes that Member "X" has publicly admitted to committing crimes, and a refusal to take any action would undermine the public's confidence in the mechanism set up to ensure that Members of Congress abide by ethical and moral standards at least as high as those to which we currently hold attorneys, cadets at the Nation's military academies, high military officials, and even school principals.

Indeed, since the prostitute was prosecuted and convicted for sodomy and his school principal lover was forced to resign, a failure to take any action against a Congressman who commits the same crimes would lead

people to believe that lesser rather than stricter standards were being applied.

The Boston Globe wrote, "*Were Member X's transgressions serious enough to warrant his departure from Congress? Yes. For his own good and for the good of his constituents, his causes and Congress*"——

THE SPEAKER PRO TEMPORE: The gentleman will cease. The Chair would remind the gentleman, and will repeat again, and will read the Speaker's full statement, clause 1 of rule XIV prevents Members in debate from engaging in personalities. Clause 4 of that rule provides that if any Member transgresses the rules of the House, the Speaker shall, or any Member may, call him to order. Members may recall that on December 18, 1987, the Chair enunciated the standard that debate would not be proper if it attempted to focus on the conduct of a Member about whom a report had been filed by the Committee on Standards of Official Conduct or whose conduct was not the subject of a privileged matter then pending before the House. Similarly, the Chair would suggest that debate is not proper which speculates on the motivations of a Member who may have filed a complaint before the Committee on Standards of Official Conduct against another Member.

MR. DANNEMEYER: Madam Speaker, I have no longer made reference to a specific Member. I have merely made reference to "Member X."

THE SPEAKER PRO TEMPORE: The gentleman is referring to newspaper stories which specifically names Members.

§ 48.10 Where a Member transgresses clause 1 of Rule XIV,

by engaging in personalities in debate (as by discussing the facts surrounding a disciplinary resolution then pending on the House Calendar), the Chair takes the initiative to call him to order pursuant to clause 4 of Rule XIV.

On July 24, 1990,⁽¹³⁾ the following proceedings occurred in the House during a special-order speech:

THE SPEAKER PRO TEMPORE:⁽¹⁴⁾ Under a previous order of the House, the gentleman from California [Mr. Dannemeyer] is recognized for 60 minutes.

MR. [WILLIAM E.] DANNEMEYER [of California]: Mr. Speaker and Members, I have taken this special order this evening for the purpose of talking to my colleagues about the matter that will be coming up on the floor of the House for consideration, probably sometime this week, dealing with our colleague, the gentleman from Massachusetts [Mr. Frank]. The House Ethics Committee submitted a report on July 20, which was just last Friday and that report has now been printed in the Record, and I will make reference to it as I discuss this issue. . . .

I would like briefly to discuss the issue of what was contained in the Ethics Committee report to the House on July 20. I believe that the newspaper accounts of the conduct of Mr. Frank are quite well-known to all of

13. 136 CONG. REC. ____, 101st Cong. 2d Sess.

14. Timothy J. Penny (Minn.).

us, but I think it is also appropriate that some discussion be made so that we have the issue before us.

Beginning sometime in 1985, believed to be around April of that year, at least in the statement of——

THE SPEAKER PRO TEMPORE: If the gentleman from California [Mr. Dannemeyer] will suspend for a moment, at this point the Chair would caution all Members that it is not in order in debate to engage in personalities. Members should refrain from references in debate to the conduct of other Members, where such conduct is not the subject then pending before the House as a question of the privileges of the House.

When a privileged resolution is offered, it would be appropriate for any Member then to discuss the details of the case. At this point, it would be inappropriate.

MR. DANNEMEYER: Do I understand the Speaker to say that it would be inappropriate for me to discuss the details of the report that has been filed?

THE SPEAKER PRO TEMPORE: It would be inappropriate to discuss the conduct of other Members, where such conduct is not the subject then pending before the House as a question of privilege.

MR. DANNEMEYER: Well, if I may inquire of the Speaker, the report of the Committee on Standards of Official Conduct was filed July 20. It describes in detail the items that I feel like I am in a position to discuss at this time, by virtue of the fact that this report is now part of the public record.

THE SPEAKER PRO TEMPORE: The report has been filed. The report is not the pending business.

Parliamentarian's Note: It is not in order in debate to refer to the official conduct of a Member where such conduct is not the subject then pending before the House by way of a report of the Committee on Standards of Official Conduct or as a question of the privileges of the House. Moreover, it is the consideration of a disciplinary resolution, not the filing of a report thereon, that is the condition for debate on the conduct of the Member concerned. Any discussion of a Member's conduct should be considered as dealing in "personality" unless the conduct is the subject of the business then pending before the House. When the conduct is the pending business of the House, its relevance under the Constitutional prerogative of the House to punish its Members for disorderly behavior supersedes the prohibition against "personality" in debate and its probative value outweighs its tendency to impair decorum. The only other permissible debate of a Member's conduct would be in the context of debate on another Member's conduct, by way of comparison of contemplated punishments, but within narrower limits than if the conduct being debated were the Member's own in the context of a disciplinary resolution relating to him.

Where Objectionable Words Impugn the Speaker

§ 48.11 Where words used in debate have affected the Speaker and have been taken down, the Speaker has left the Chair after designating another Member to preside.

On Feb. 7, 1935,⁽¹⁵⁾ and on May 31, 1934,⁽¹⁶⁾ when words were used in debate impugning the integrity of the Speaker, the Speaker left the Chair after designating another Member to preside and to rule on the words objected to.

Procedure In the House

§ 48.12 The only method by which the words of the Member having the floor may be challenged is through a demand that his words be taken down.

The following proceedings occurred in the House on June 4, 1984,⁽¹⁷⁾ during consideration of the Oregon Wilderness Act of 1983 (H.R. 1149):

MR. [LES] AUCCOIN [of Oregon]: . . .
The House has had its opportunity to

15. 79 CONG. REC. 1680, 1681, 74th Cong. 1st Sess.

16. 78 CONG. REC. 10167-70, 73d Cong. 2d Sess.

17. 130 CONG. REC. 14805, 98th Cong. 2d Sess.

work its will. The only thing that would be gained now by not voting for this bill as it is would be to delay a final resolution, pushing it off further down the road . . . running this issue up against all the other issues that the Congress is going to be dealing with in its rush toward adjournment and that will guarantee the doom of this bill.

Obviously, no responsible person on either side of this issue wants such a thing to happen.

MR. [DON] YOUNG of Alaska: Mr. Speaker, a point of order.

THE SPEAKER PRO TEMPORE:⁽¹⁸⁾ The gentleman will state it.

MR. YOUNG of Alaska: Mr. Speaker, I would like to suggest that the gentleman not use the term "no responsible person."

Both Members from Oregon are very responsible members of the committee that I am ranking member of, and I consider my responsibility very seriously and to say that we are not responsible because we are in opposition to this bill is incorrect.

I would respectfully suggest that the gentleman reconsider his words.

MR. AUCCOIN: Mr. Speaker, this gentleman said that no responsible person wants to see a resolution of this bill delayed to such a date in which no passage of the bill dealing with the Oregon RARE II problem would be possible. . . .

I assume it applies to the gentleman from Alaska. I think he is responsible. I do not think he wants to see a resolution of this bill delayed.

MR. YOUNG of Alaska: The bill is basically wrong. I rose against the bill

18. James C. Wright, Jr. (Tex.).

and to allude to the fact that we are irresponsible does not become the gentleman at all. That disturbs me a great deal. . . .

So I would suggest again to the gentleman to choose his words very carefully.

MR. AU COIN: Mr. Speaker, what is the regular order?

THE SPEAKER PRO TEMPORE: The gentleman may proceed. The gentleman has not asked the words be taken down. The gentleman may proceed.

—Where Member Has Breached Rules of Decorum

§ 48.13 Upon a timely demand that words spoken in debate be taken down as unparliamentary, the Chair gavels the proceedings to a halt, directs the challenged Member to be seated under clause 4 of Rule XIV and directs the Clerk to report the words; but, while a Member who is held to have breached the rules of decorum in debate is presumptively disabled from further recognition on that day, by tradition the Speaker's ruling and any necessary expungement of the Record are deemed sufficient sanction, and by custom the chastened Member is permitted to proceed in order (usually by unanimous consent).

The proceedings of July 29, 1994,⁽¹⁹⁾ demonstrate procedures following a demand that the words be taken down:

MS. [MAXINE] WATERS [of California]: Madam Speaker, last evening a Member of this House, Peter King, had to be gaveled out of order at the White-water hearings of the Banking Committee. He had to be gaveled out of order because he badgered a woman who was a witness from the White House, Maggie Williams. I am pleased I was able to come to her defense. Madam Speaker, the day is over when men can badger and intimidate women.

MR. [F. JAMES] SENSENBRENNER [Jr., of Wisconsin]: Madam Speaker, I demand the gentlewoman's words be taken down.

THE SPEAKER PRO TEMPORE:⁽¹⁾ The gentlewoman from California [Ms. Waters] must suspend and be seated.

The Clerk will report the words.

MS. WATERS:—

THE SPEAKER PRO TEMPORE: The gentlewoman will please desist and take her seat.

MS. WATERS:—

THE SPEAKER PRO TEMPORE: The Chair is about to direct the Sergeant at Arms to present the mace.

THE SPEAKER:⁽²⁾ The Clerk will report the words.

The Clerk read as follows:

He had to be gaveled out of order because he badgered a woman who

19. 140 CONG. REC. p. ____, 103d Cong. 2d Sess.

1. Carrie Meek (Fla.).

2. Thomas S. Foley (Wash.).

was a witness from the White House, Maggie Williams. I am pleased I was able to come to her defense. Madam Chairwoman, the day is over when men can badger and intimidate women.

THE SPEAKER: While in the opinion of the Chair the word "badgering" is not in itself unparliamentary, the Chair believes that the demeanor of the gentlewoman from California was not in good order in the subsequent period immediately following those words having been uttered.

Accordingly, the Chair rules that without leave of the House, the gentlewoman from California may not proceed for the rest of today. . . . The Chair wishes to advise the gentlewoman from Colorado that it is the opinion of the Chair that the Chair at the time was attempting to insist that the gentlewoman from California desist with any further statements and sit down. She did not accord cooperation to the Chair and follow the Chair's instructions. Consequently, it is the finding of the Chair that her demeanor at that point in refusing to accept the Chair's instructions was out of order.

The Chair wishes to ask if there is objection to the gentlewoman from California proceeding in good order.

MR. [ROBERT S.] WALKER [of Pennsylvania]: Reserving the right to object, Mr. Speaker, do I understand that the Chair is putting the question to the House under unanimous consent of the gentlewoman being able to proceed for the rest of the day?

THE SPEAKER: That is correct.

MR. WALKER: I thank the Chair.

THE SPEAKER: Without objection, so ordered.

There was no objection.

—Raising Question of Personal Privilege

§ 48.14 A question of personal privilege may not normally be based upon language uttered on the floor of the House in debate, the proper course being the demand that words be taken down before other debate on business intervenes.⁽³⁾

On June 7, 1935,⁽⁴⁾ Mr. Jennings Randolph, of West Virginia, arose to a question of personal privilege, resulting in the following ruling:

MR. RANDOLPH: I wish to answer certain remarks made yesterday by the gentleman from Texas referring to testimony I gave in the district court on two occasions, and also his comment upon my service in the Congress.

THE SPEAKER:⁽⁵⁾ In the opinion of the Chair it is not in order to rise to a question of personal privilege based on matters uttered in debate on the floor of the House. The proper course to be

3. 95 CONG. REC. 2651, 2652, 81st Cong. 1st Sess., Mar. 16, 1949; 93 CONG. REC. 2314, 80th Cong. 1st Sess., Mar. 20, 1947; 92 CONG. REC. 5000, 79th Cong. 2d Sess., May 14, 1946; 84 CONG. REC. 2883, 2884, 76th Cong. 1st Sess., Mar. 16, 1939; and 81 CONG. REC. 6309, 6310, 75th Cong. 1st Sess., June 24, 1937.
4. 79 CONG. REC. 8864, 74th Cong. 1st Sess.
5. Joseph W. Byrns (Tenn.).

pursued under such circumstances is to demand that the objectionable words be taken down.

The Chair does not think the gentleman can rise to a question of personal privilege under the circumstances.

§ 48.15 A Member may rise neither to a question of personal privilege nor to a question of privilege of the House based on words uttered in debate on the floor of the House.

On Feb. 6, 1950,⁽⁶⁾ Mr. Clare E. Hoffman, of Michigan, arose to state a “question of the privilege of the House and also a question of personal privilege.” He based his question on a one-minute speech made on the floor of the House on Feb. 2, 1950, by Mr. Anthony Cavalcante, of Pennsylvania, wherein reflections were cast “upon the House as a whole,” upon “more than two-thirds of the Members of the House,” upon an individual Member of the House, and upon a member of “the other body.” Mr. Hoffman then introduced a resolution to strike the allegedly objectionable words from the *Congressional Record* of Feb. 2.

Speaker Sam Rayburn, of Texas, stated his opinion that a

question of privilege coming several days after objectionable words were uttered was improper and impracticable. Mr. Hoffman responded that although the words were uttered on the floor and that he was present in the Chamber at the time, he had not heard all the words spoken. He stated that there were precedents to the effect that a point of order need not necessarily be made at the time the words were uttered.

Speaker Rayburn ruled as follows:

The Chair will read the rule:

If a Member is called to order for words spoken in debate, the Member calling him to order shall indicate the words excepted to, and they shall be taken down in writing at the Clerk's desk and read aloud to the House; but he shall not be held to answer, nor be subject to the censure of the House therefore, if further debate or other business has intervened.⁽⁷⁾

The Chair, in the interest of orderly procedure, is forced to hold that after the Journal has been read and approved and the Record read and approved, it would be bad practice to go back and open it up.

Parliamentarian's Note: Under normal practice, the only situation where a question of personal privilege can be raised for objectionable words after intervening debate is where the words are in-

6. 96 CONG. REC. 1514, 81st Cong. 2d Sess.

7. Rule XIV clause 5, *House Rules and Manual* §761 (1995).

serted, not spoken, and appear in the Record or under Extensions of Remarks.

§ 48.16 A question of personal privilege may be based upon unparliamentary language inserted by a Member in his speech under leave to revise and extend his remarks.

On June 24, 1937,⁽⁸⁾ Mr. Clare E. Hoffman, of Michigan, arose to a question of personal privilege. He based his question on remarks printed in the *Congressional Record* of June 22, 1937, made by Mr. Adolph J. Sabath, of Illinois, and Mr. Maury Maverick, of Texas. Mr. Maverick's remarks had been uttered on the floor in debate, but Mr. Sabath's remarks had not been made on the floor but inserted in the Record under leave to revise and extend.

Speaker William B. Bankhead, of Alabama, stated that in his opinion Mr. Hoffman could not base a question of personal privilege on remarks which had been uttered on the floor in debate.

As to the remarks inserted in the Record by Mr. Sabath, the Speaker stated as follows:

If, as a matter of fact, the gentleman from Illinois inserted in the Record matters not actually stated by him

upon the floor at the time which gave offense to the gentleman from Michigan, it was then the privilege of the gentleman from Michigan to raise that question, as he has now raised it, as a matter of personal privilege when his attention was called to the offending language. In view of the fact that the gentleman from Illinois has undertaken to make an explanation of the matter and has offered to move to have the offending language stricken from the Record, does the gentleman still insist on the matter of personal privilege? . . .

The gentleman would, if he insisted, after the ruling of the Chair on the second point of order involving the language of the gentleman from Illinois, be entitled to discuss that matter.

§ 48.17 Words spoken in the Committee of the Whole may be taken down and ruled on in the House by the Speaker, but they do not give rise to a question of personal privilege.

On Mar. 16, 1949,⁽⁹⁾ while the Committee of the Whole was considering Senate Joint Resolution 36, authorizing a contribution by the United States for the relief of Palestine refugees, Mr. John W. McCormack, of Massachusetts, stated in reference to Mr. John E. Rankin, of Mississippi, "Before Pearl Harbor the gentleman was opposed to every bill necessary for

8. 81 CONG. REC. 6309, 6310, 75th Cong. 1st Sess.

9. 95 CONG. REC. 2651, 2652, 81st Cong. 1st Sess.

the defense of our country.” The words were demanded to be taken down, the Committee rose, and Speaker Sam Rayburn, of Texas, ruled that the language objected to was merely an opinion and not a violation of the rules of the House.

The Committee resumed its sitting, and Mr. McCormack proceeded in debate. Mr. Rankin then arose to a question of personal privilege. Chairman John J. Rooney, of New York, ruled as follows:

Such a point may not be raised in the Committee of the Whole.

MR. RANKIN: Oh, yes; where the offense is committed in the Committee of the Whole, it is in order.

THE CHAIRMAN: The proper remedy is to have the words taken down.

MR. RANKIN: The words have been taken down and were read by the Clerk.

THE CHAIRMAN: I may say to the gentleman from Mississippi that the Speaker of the House has already ruled on that.

§ 48.18 Where a Member attempted to raise a question of personal privilege based on objectionable words spoken in debate, the Speaker, while declining to rule on the question presented, recognized him for a one-minute speech to reply to the derogatory remarks.

On Oct. 15, 1969,⁽¹⁰⁾ Mr. William E. Brock, 3d, of Tennessee, made the following one-minute speech in the House:

Mr. Speaker, most of us heard last evening a great plea for honest debate, for free and open discussion of the issues of the tragedy of Vietnam. That debate went on for 5 hours.

Now, today, we have witnessed a turn. Those who spoke so eloquently for freedom and full debate now object to the consideration of a resolution which endorses the right of dissent in this country. I think it is typical of the double standard that is applied in this country by those elements who are so critical of an honest effort of a great Nation to achieve a lasting peace.

Mr. Arnold Olsen, of Montana, then rose to a point of privilege:

Mr. Speaker, my point of personal privilege is the attack just made from the well of the House on the loyalty of so many of us and the right of free speech in this country.

Mr. Speaker, I think that address is entitled to a response of 1 minute.

Speaker John W. McCormack, of Massachusetts, did not rule on whether a question of personal privilege was presented, but granted Mr. Olsen “under the circumstances” the right to make a one-minute speech in reply to Mr. Brock’s remarks.

10. 115 CONG. REC. 30080, 91st Cong. 1st Sess.

Interrupting Member Who Declines To Yield; Deleting Remarks of Member Not Recognized

§ 48.19 A Member wishing to interrupt another in debate should address the Chair for permission of the Member speaking who may exercise his own discretion as to whether or not to yield; the Chair will take the initiative in preserving order when a Member declining to yield in debate continues to be interrupted by another Member, and may order that the remarks of the Member interrupting not appear in the Record.

On July 26, 1984,⁽¹¹⁾ the Committee of the Whole had under consideration H.R. 11, the Education Amendments of 1984. Mr. Robert S. Walker, of Pennsylvania, who was discussing prayer in schools, was interrupted by George Miller, of California, who was reading passages aloud from the Bible for purposes of demonstrating his argument that the right to pray is not absolute:

MR. WALKER: . . . It has been referred to by many people on the floor today that they know of no situation in

the country where silent prayer has ever been ruled out of order by the courts. That is wrong.

I have here an article before me from CQ in which it says that in Alabama the silent prayer in Alabama was ruled out of order by the 11th U.S. Circuit Court of Appeals. . . .

[Mr. Miller of California proceeded to read from the Bible at this point.]

THE CHAIRMAN PRO TEMPORE:⁽¹²⁾ The gentleman will suspend. The gentleman from California will suspend. The gentleman is out of order.

MR. MILLER of California: Mr. Chairman, I would just like to raise the point—

THE CHAIRMAN PRO TEMPORE: The gentleman is out of order.

MR. WALKER: Mr. Chairman, I have not yielded to the gentleman.

THE CHAIRMAN PRO TEMPORE: The gentleman has not yielded.

The gentleman's words when he spoke in the well without getting the permission of the Member who had the floor will not appear in the Record.

The gentleman from Pennsylvania may proceed. . . .

MR. WALKER: . . . I must say that the gentleman reading from the Holy Bible in the course of the discussion here I think is somewhat inappropriate. It was far more appropriate in the course of political debate; it was far more appropriate than the so-called prayer uttered earlier by the gentleman from New York.

MR. MILLER of California: Mr. Chairman, will the gentleman yield?

MR. WALKER: I would be glad to yield to the gentleman.

11. 130 CONG. REC. 21247, 98th Cong. 2d Sess.

12. Abraham Kazen, Jr. (Tex.).

MR. MILLER of California: I think the point is this: That suggesting that this is an absolute right and that in fact to try to prescribe it, whether it is audible, whether it is oral, whether it is loud, whether it is soft, whether it is silent, is a point of real contention, because it is not an absolute right, as the gentleman suggests.

We just saw the rules of the House work against that right. The gentleman raised the point earlier about a teacher—

THE CHAIRMAN PRO TEMPORE: The time of the gentleman from Pennsylvania has expired.

In the House; Turning Off Microphone as Way To Preserve Order

§ 48.20 The rules which direct the Speaker to preserve order and decorum in the House authorize the Chair to take necessary steps to prevent or curtail disorderly outbursts by Members; thus, for example, the Chair may order the microphones turned off if being utilized by a Member, who has not been properly recognized, to engage in disorderly behavior.

On Mar. 16, 1988,⁽¹³⁾ during the period for one-minute speeches in the House, it was demonstrated that, where a Member has been

notified by the Chair that his debate time has expired, he is thereby denied further recognition in the absence of the permission of the House to proceed, and he has no right to further address the House after that time. The proceedings were as follows:

(Mr. Dornan of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

MR. [ROBERT K.] DORNAN of California: Mr. Speaker, and I address a different Member of this Chamber from New York, because you have left your chair, and Mr. Majority Whip from California, you have also fled the floor. In 10 years Jim and Tony—I am not using any traditional titles like “distinguished gentleman”—Jim and Tony, in 10 years I have never heard on this floor so obnoxious a statement as I heard from Mr. Coelho, which means “rabbit” in Portuguese, as ugly a statement as was just delivered. Mr. Coelho said that we on our side of the aisle and those conservative Democrats, particularly those representing States which border the Gulf of Mexico, sold out the Contras. That is absurd. . . . Panama is in chaos and Communists in Nicaragua, thanks to the liberal and radical left leadership in this House are winning a major victory, right now.

THE SPEAKER PRO TEMPORE:⁽¹⁴⁾ The time of the gentleman from California [Mr. Dornan] has expired.

MR. DORNAN of California: Wait a minute. On Honduran soil and on Nicaraguan soil.

13. 134 CONG. REC. 4079, 4084, 4085, 100th Cong. 2d Sess.

14. Gary L. Ackerman (N.Y.).

THE SPEAKER PRO TEMPORE: The time of the gentleman has expired.

MR. DORNAN of California: And it was set up in this House as you set up the betrayal of the Bay of Pigs.

THE SPEAKER PRO TEMPORE: The time of the gentleman has expired.

MR. DORNAN of California: I ask—wait a minute—I ask unanimous consent for 30 seconds. People are dying.

THE SPEAKER PRO TEMPORE: The time of the gentleman has expired.

MR. DORNAN of California: People are dying.

MR. [HAROLD L.] VOLKMER [of Missouri]: Mr. Speaker, regular order, regular order.

THE SPEAKER PRO TEMPORE: The time of the gentleman has expired. Will the Sergeant at Arms please turn off the microphone?

MR. DORNAN of California: . . . I demand a Contra vote on aid to the Democratic Resistance and the freedom fighters in Central America. In the name of God and liberty and decency I demand another vote in this Chamber next week. . . .

MR. [JUDD] GREGG [of New Hampshire]: Mr. Speaker, I have a parliamentary inquiry. . . .

Mr. Speaker, I was just in my office viewing the proceedings here, and during one of the proceedings, when the gentleman from California [Mr. Dornan] was addressing the House, it was drawn to my attention that the Speaker requested that Mr. Dornan's microphone be turned off, upon which Mr. Dornan's microphone was turned off.

Mr. Speaker, my inquiry of the Chair is: Under what rule does the Speaker decide to gag opposite Members of the House? . . .

THE SPEAKER PRO TEMPORE: The Chair is referring to Mr. Dornan. He requested permission of the Chair to proceed for 1 minute, and that permission was granted by the House. Mr. Dornan grossly exceeded the limits and abused the privilege far in excess of 1 minute, and the Chair proceeded to restore order and decorum to the House. . . .

MR. GREGG: . . . I have not heard the Chair respond to my inquiry which is what ruling is the Chair referring to which allows him to turn off the microphone of a Member who has the floor?

THE SPEAKER PRO TEMPORE: Clause 2 of rule I.

MR. GREGG: Mr. Speaker, I would ask that that rule be read. I would ask that that rule be read, Mr. Speaker. . . .

THE SPEAKER PRO TEMPORE: It reads, 2. He shall preserve order and decorum, and, in case of disturbance or disorderly conduct in the galleries, or in the lobby, may cause the same to be cleared. . . .

MRS. [LYNN] MARTIN of Illinois: Mr. Speaker, I have a parliamentary inquiry. . . .

The gentlewoman from Illinois would inquire of the Chair, because it was difficult occasionally to hear the rather strained ruling from the Chair, when I heard the Chair read from the rule, and I hope the Chair will recheck that sentence, because the Chair talked about disturbances in the gallery and disturbances outside the floor of the House.

Would the Speaker reread the exact sentence that would indicate why and how a microphone could be turned off of a duly elected Member of the House on the floor of the House? . . .

THE SPEAKER PRO TEMPORE: Under rule I, clause 2—and I will only read the half of it that applies, so as not to cause confusion in the minds of those who appear to be confused—“He shall preserve order and decorum.”

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Speaker, the sentence goes on.

MRS. MARTIN of Illinois: I believe, Mr. Speaker, that you have been requested specifically to quote that rule that affects a Member of the House on the floor, and that is not that sentence. . . . The Chair is not saying that a Member of the House, is subject to the same rule, even though it does not state it, as applied to the gallery, will apply to Members of the House. I do not believe that that can happen in an elected representative body.

Mr. Speaker, would the Chair please quote how it affects an elected Member speaking on the floor?

THE SPEAKER PRO TEMPORE: The Chair will read just what he read before.

“He shall preserve order and decorum, and,—” Then it proceeds to speak about in another place.

“Order and decorum is not just in the halls and in the galleries. The word “and” is followed by a comma.

Parliamentarian's Note: Clause 4 of Rule XIV⁽¹⁵⁾ is, of course, also applicable in situations such as that described above.

Procedure Before Adoption of Rules

§ 48.21 Prior to adoption of the rules, the Speaker suggested

15. See *House Rules and Manual* §760 (1995).

that, if necessary, he might maintain decorum by directing a Member who had not been recognized in debate beyond an allotted time to be removed from the well, and by directing the Sergeant at Arms to present the mace as the traditional symbol of order.

The following exchange occurred on Jan. 3, 1991, during consideration of House Resolution 5, adopting the rules of the 102d Congress:⁽¹⁶⁾

THE SPEAKER PRO TEMPORE:⁽¹⁷⁾ The time of the gentlewoman has expired.

MRS. [NANCY L.] JOHNSON of Connecticut: The majority party is proposing a rules change. . . .

THE SPEAKER PRO TEMPORE: The House will operate under proper decorum.

MRS. JOHNSON of Connecticut: Rather through the rule, they are intending to abrogate the content and meaning of the laws. . . .

THE SPEAKER PRO TEMPORE: The gentlewoman is out of order. . . .

MRS. JOHNSON of Connecticut: . . . I am sorry. I know this is unpleasant.

THE SPEAKER PRO TEMPORE: The gentlewoman will remove herself from the well within 30 seconds.

MR. [HENRY B.] GONZALEZ [of Texas]: Mr. Speaker, I rise to a point of order. . . .

16. 137 CONG. REC. 58, 59, 102d Cong. 1st Sess.

17. Steny H. Hoyer (Md.).

The gentlewoman is out of order . . . I am imploring the Chair to exercise its authority to enforce the rules of the House by summoning the Sergeant at Arms and presenting the mace.

THE SPEAKER PRO TEMPORE: The Chair may do that.

§ 49. — The Demand That Words Be Taken Down

Pursuant to clause 5 of Rule XIV, the demand that a Member's words be taken down must be made immediately after they are uttered and comes too late if further debate has intervened.

A demand that words be taken down must indicate with specificity the objectionable words,⁽¹⁸⁾ and must come immediately after the objectionable words were uttered.⁽¹⁹⁾ If made after intervening business or debate, the demand comes too late,⁽²⁰⁾ unless the

18. See §§ 49.2, 49.3, *infra*.

For an occasion where the Speaker ordered additional words reported, to deliver an informed ruling, see § 49.4, *infra*.

19. See §§ 49.6, 49.7, *infra*.

20. See Rule XIV clause 5, *House Rules and Manual* § 761 (1995): "If a Member is called to order for words spoken in debate, the Member calling him to order shall indicate the words excepted to, and they shall be taken down in writing at the Clerk's desk and read aloud to the House; but he

Member seeking to make the demand was on his feet seeking recognition at the proper time.⁽¹⁾

The demand should indicate the words excepted to and the identity of the Member who uttered them; it may indicate briefly the grounds for the demand, such as indulging in personalities, referring to a Senator, or impugning the integrity of a colleague. But the Member making the demand may not at that time debate the reasons for making the demand.⁽²⁾ Indeed, following the demand, no debate is in order, and the Speaker does not entertain unanimous-consent requests, other than for withdrawal of the words, or parliamentary inquiries pending the report of the words and a ruling on them.⁽³⁾

Pending disposition of the demand by a ruling of the Chair, the demand may be withdrawn by the Member making it, and unani-

shall not be held to answer, nor be subject to the censure of the House therefor, if further debate or other business has intervened."

Where words are not spoken in debate but are inserted in the Record under leave to revise and extend, a question of privilege may be based on the objectionable words after they are published (see § 48.16, *supra*).

1. See 8 Cannon's Precedents § 2528.

2. See § 49.18, *infra*.

3. See §§ 49.14, 49.15, *infra*.